

REMARKS

By this amendment, claims 3 and 15-19 have been canceled. The specification and claims 1, 11, 12 and 14 have been amended. Claims 1, 2, 4-14 and 20 remain in the application. This application has been carefully considered in connection with the Examiner's Action. Reconsideration and allowance of the application, as amended, is respectfully requested.

The Specification

The specification has been amended at page 7, lines 8-10 (which corresponds to paragraph [0068] of the published application). In particular, a parenthetical has been inserted into the sentence as follows "[f]or instance, it may be required that the sum of the importance of each of the images included in the icon is minimal (i.e., at a minimum) a certain predetermined value." The inserted parenthetical provides elaboration and/or explanation of the term "minimal", as can be reasonably interpreted from the context of the sentence within the paragraph. In addition, the dictionary definition of the term "minimal" includes "relating to or being a minimum" (Webster's New Collegiate Dictionary, 1981). Furthermore, it is noted that the inventor is from the Netherlands and English may not be the inventor's primary language. Therefore it is reasonable that an interpretation of the term "minimal" as per the amendment to the specification is appropriate. In view of the above, it is respectfully submitted that the amendment to the specification constitutes no new matter, rather it is only providing for clarification of a word within the context of the sentence in which the word is presented. Entry of the amendment to the specification is respectfully requested.

Rejection under 35 U.S.C. §112

Claims 15, 17 and 19

Claim 15, 17 and 19 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. With respect to claims 15, 17 and 19, the same have been canceled herein, thus rendering the rejection now moot.

However, as presented herein, claims 1, 11, 12 and 14 have been amended to include recitation of the limitation "wherein the *adapted number* of images incorporated in the icon is selected based on a *sum* of the relative importance of each of the images included in the icon *being, at a minimum, a certain predetermined value*" (emphasis added). It is respectfully submitted that the above-identified language is definite. In other words, the "number" is based on the "sum" of "the relative importance of each of the images included in the icon" being, at a minimum, a certain predetermined value, as will be explained further herein below. Support for this amendment can be found in the specification on page 7, lines 8-10 of the application as originally filed (which corresponds to paragraph [0068] of the published application).

Rejection under 35 U.S.C. §103

As presented herein, claim 1 has been clarified to more clearly articulate the novel and non-obvious method for creating an icon, incorporating further details describing the adapted number of images incorporated into an icon. As per claim 1, the number of images selected to be included in the icon is not fixed, but is adapted to the determined relative importance (See, for example, the present specification on *page 3, lines 9-10* (corresponding to paragraph [0023] of the published application)). The relative importance I_i (for $i = 1$ to N) of each image of the group of images is determined and is a number between 0 and 1. In addition, selection of the adapted number of images to be incorporated into the created icon is based on a requirement that the sum of the relative importance of each of the images selected to be included in the icon is minimal (i.e., at a minimum) a certain predetermined value. (See, for example, the present specification on *page 7, lines 9-10* (corresponding to paragraph [0068] of the published application)). In other words, with respect to selecting the adapted number of images to be included in the icon, the sum of the relative importance of each of the

images (recalling that relative importance of an image is a number between 0 and 1) is, at a minimum, a certain predetermined value. Accordingly, as can be reasonably interpreted, the sum must, at a minimum, be the certain predetermined value. In other words, this is equivalent to stating that the sum is greater than or equal to the certain predetermined value (e.g., $\text{sum} \geq \text{predetermined value}$), as can be reasonably understood. The method of claim 1 further advantageously enables *automatic* generation of an icon, in response to determining the relative importance of each image of a group of images, wherein the icon comprises a graphic in a graphical user interface to represent the group of images. Support for claim 1 (as well as for claims 11, 12 and 14) can be found in the specification at least on *page 1, lines 8 and 18-24; page 3, line 9-10; page 5, lines 22-23; page 6, lines 16-19; page 7, lines 8-10 (corresponding to paragraphs [0003]-[0005]; [0023]; [0051]; [0063]; and [0068] of the published application); and FIGs. 1a, 1b, 2a and 2b.*

Claims 1-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matraszek et al (U.S. PAP 2003/0117651; hereafter “**Matraszek**”) in view of Parulski et al (U.S. PAP 2004/0201752; hereafter “**Parulski**”). With respect to claims 3, 15-19, the same have been canceled herein, thus rendering the rejection thereof now moot. With respect to claim 1, Applicant respectfully traverses this rejection on the grounds that the **Matraszek** and **Parulski** references are defective in establishing a prima facie case of obviousness.

Independent claim 1 recites specific feature limitations, inter alia, “generating the icon automatically in response to determining the relative importance of each image of the group of images, wherein the icon comprises a graphic in a graphical user interface to represent the group of images ... wherein the number of images that are selected to be incorporated in the icon is not fixed, but is an adapted number based on the determined relative importance (I_1, \dots, I_N) of each image (1, 2, ... N), further wherein the

adapted number of images incorporated in the icon *is selected based on a sum* of the relative importance of each of the images included in the icon *being, at a minimum, a certain predetermined value.*"

Applicant submits that neither **Matraszek** nor **Parulski** discloses at least the aforementioned specific feature limitations of independent claim 1. In particular, it is submitted that secondary citation to **Parulski** does not remedy the conceded deficiency in the primary citation to **Matraszek**. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of **Matraszek** and **Parulski** is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The office action concedes that the primary citation to **Matraszek** does not explicitly teach the icon comprises a graphic in a graphical user interface [to] represent the group of images. (Office Action, page 4). Nonetheless, the Office Action rejects independent claim 1, contending that the secondary citation to **Parulski** provides this necessary disclosure. (Office Action, page 4). This contention is respectfully traversed.

Parulski relates to a method of capturing images using a digital camera and organizing the captured images for storage into electronic albums. (See **Parulski**, Abstract). **Parulski** teaches "after the user presses the "favorite" button 364, the image processor 320 in the digital camera 300 *updates* the GUI screen displayed on the color LCD display 332 to be as shown in FIG. 7B. The GUI screen 500B in FIG. 7B includes a "favorite" indicator 506B, for example, the *heart shaped icon* shown in FIG. 7B." (emphasis added, see **Parulski**, paragraph [0077]). **Parulski** further teaches "a user interface which enables the user to identify images as being an 'Extra Favorite' image, a 'Favorite' image, a 'Normal' image, or a 'Dislike' image, and to change the classification of a previously classified image. In this case, an appropriate *icon* is used to indicate the image classification." (emphasis added, see **Parulski**, paragraph [0078]). As best

understood from paragraphs [0077]-[0078], **Parulski** teaches the use of an icon on a GUI screen to represent a classification, wherein the classification includes one of an 'Extra Favorite' image, a 'Favorite' image, a 'Normal' image, or a 'Dislike' image and thus cannot reasonably be interpreted to disclose the "icon [that] comprises a graphic in a graphical user interface to represent the group of images" of the aforementioned feature of independent claim 1. Thus, **Parulski** does not provide a disclosure that remedies the aforementioned, conceded deficiency in the primary citation to **Matraszek**.

Further as discussed above, claim 1 has been amended for clarification, incorporating additional details describing the adapted number of images incorporated into an icon. In particular, claim 1 has been amended to include "wherein the adapted number of images incorporated in the icon is selected based on a sum of the relative importance of each of the images is, at a minimum, a certain predetermined value." Recall that *relative importance* of an image is a *number between 0 and 1*. With respect to this limitation, the Office Action contends that "as best understood, the number of images incorporated in the icon is selected based on a sum of the importance of each of the images included in the icon being minimal a certain predetermined value (corresponding to the measure of interest/ importance/ or favoriteness as a sum and a weighted sum of three measures see [80-81] [Matraszek])" (Office Action, page 7-8).

It is respectfully submitted that **Matraszek** does not teach the specific feature limitation "wherein the *adapted number* of images incorporated in the icon *is selected based on a sum* of the relative importance of each of the images included in the icon *being, at a minimum, a certain predetermined value*" as recited in claim 1. Rather, **Matraszek** teaches "[t]he three affective signals can be further combined to obtain an integral measure of positive interest. ... Then a measure of positive interest (e.g. importance or "favoriteness") can be computed for every image using an appropriate function. One such function is a sum of all three measures:

$$\text{Positive Interest} = \text{Dltime} + \text{Dlskin_response} + PR "$$

(Matraszek, paragraph [0080]). **Matraszek** further teaches "[o]ther appropriate functions include a weighted sum of these three measures, where the weights are determined based on the standard deviation within each of the normalized (divided by the maximum value) signals over the image set. ... The reason for this dependency stems from the assumption that a standard deviation of a particular measure reflects a degree of differentiation between the images along a given measure. This implies that the signal with the highest standard deviation has more differentiation power, and therefore is more important to consider while determining an integral measure of positive interest." (Matraszek, paragraph [0081]). As best understood from paragraphs [0080]-[0081], **Matraszek** thus teaches the combining of three affective signals, using an appropriate function, to obtain an integral measure of positive interest for every image, i.e., one integral measure per image. However, the combining of three affective signals to obtain the integral measure of positive interest cannot reasonably be interpreted to disclose the specific feature limitation "wherein the *adapted number* of images incorporated in the icon *is selected based on a sum* of the relative importance of each of the images included in the icon *being*, at a *minimum*, a certain *predetermined value*" as recited in claim 1. Thus, **Matraszek** does not provide a disclosure of the aforementioned specific feature limitation as recited in claim 1.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. §103(a) are respectfully requested. Claims 2 and 4-10 depend from and further limit allowable independent claim 1 and therefore are allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claim 11 contains limitations similar to those of claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 11 is

believed allowable and an early formal notice thereof is requested. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claim 12 contains limitations similar to those of claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 12 is believed allowable and an early formal notice thereof is requested. Claim 13 depends from and further limits allowable independent claim 12 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Claim 14 contains limitations similar to those of claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 14 is believed allowable and an early formal notice thereof is requested. Claim 20 depends from and further limits independent claim 14 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application. In addition, the Office Action contains a number of statements characterizing the claims, the Specification, and the prior art. Regardless of whether such statements are addressed by Applicant, Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant.

It is clear from all of the foregoing that independent claims 1, 11, 12 and 14 are in condition for allowance. Claims 2 and 4-10 depend from and further limit claim 1 and therefore are allowable as well. Claim 13 depends from and further limits claim 12 and therefore is allowable as well. Claim 20 depends from and further limits claim 14 and therefore is allowable as well.

The matters identified in the Office Action of June 22, 2010 are now believed resolved. Accordingly, the application is believed to be in proper condition for allowance. The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. Withdrawal of the final action and issuance of an early formal notice of allowance of claims 1, 2, 4-14 and 20 is requested.

Respectfully submitted,

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